

ASSEMBLY BILL

No. 1916

Introduced by Assembly Member Irwin

February 11, 2016

An act to add Section 94886.5 to the Education Code, relating to private postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

AB 1916, as introduced, Irwin. Private postsecondary education: school closure bonds.

Existing law, the California Private Postsecondary Education Act of 2009, provides for the regulation of private postsecondary educational institutions by the Bureau for Private Postsecondary Education in the Department of Consumer Affairs. The act exempts an institution from its provisions, if any of a list of specific criteria are met.

The act establishes the Student Tuition Recovery Fund and requires the bureau to adopt regulations governing the administration and maintenance of the fund, including requirements relating to assessments on students and student claims against the fund, and establishes that the moneys in this fund are continuously appropriated to the bureau for specified purposes.

This bill would require a private postsecondary institution, as defined, to file a surety bond before January 1, 2019, with the department in the amount equal to a reasonable estimate of the maximum amount of tuition and fees imposed on students of the institution for a period of attendance of greatest expense during the applicable academic year.

In the event the institution ceases operation, this bill would require the bureau, upon request for a refund by a student or the implementation of a teach-out for students of the institution, to make a demand on the

bond to: (1) issue a refund of tuition and fees for student claims, (2) implement a teach-out for students of the institution, and (3) reimburse the Student Tuition Recovery Fund for moneys paid from the fund for student claims that would have been otherwise recoverable under the bond.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 94886.5 is added to the Education Code,
2 to read:

3 94886.5. (a) Before January 1, 2019, an institution shall file
4 with the bureau a surety bond in the amount determined pursuant
5 to subdivision (b). The bond shall be executed by the institution
6 as principal and by a surety company authorized to do business in
7 this state. The bond shall be continuous unless the surety is released
8 pursuant to this section.

9 (b) The amount of the bond shall be equal to a reasonable
10 estimate of the maximum amount of tuition and fees to be returned
11 to students of the institution for the most expensive period of
12 attendance during the applicable academic year. Following the
13 initial filing of the bond with the bureau, the amount of the bond
14 shall be recalculated annually by the bureau based upon a
15 reasonable estimate of the maximum amount of tuition and fees
16 to be returned to students anticipated by the school for that period
17 of attendance. The bond shall, to the extent practicable, cover
18 potential administrative costs incurred by the bureau in an amount
19 no less than 5 percent of the total amount of the bond. In no case
20 shall the amount of the bond be less than five thousand dollars
21 (\$5,000).

22 (c) (1) In the event that an institution ceases operation, the
23 bureau shall make demand on the surety of the institution upon
24 the request for a refund by a student or the implementation of the
25 teach-out for the students of the institution according to the plan
26 provided to the bureau pursuant to Section 94926, and the surety
27 shall pay the claim due within 45 days. The bureau shall use the
28 bond to pay claims, to the extent practicable, filed by students who
29 have not otherwise recovered their tuition and fees through a
30 teach-out, or from the Student Tuition Recovery Fund established

1 in Section 94923. The bureau shall use the bond to reimburse the
2 Student Tuition Recovery Fund for all moneys paid from the fund
3 for claims that would have been otherwise recoverable under the
4 bond, except as provided in paragraph (4).

5 (2) The bureau shall develop and implement a process, and
6 necessary forms, for students enrolled in an institution ceasing
7 operation to file claims to the bureau to recover their tuition and
8 fees not recovered through a teach-out.

9 (3) Any student enrolled in an institution ceasing operation who
10 does not file a claim to recover tuition and fees pursuant to
11 paragraph (2) may recover through a teach-out provided to students
12 of the institution ceasing operation through a contract with a
13 community college or any other arrangement approved by the
14 bureau. The teach-out provided to the student shall replace the
15 enrollment agreement or contract between the institution ceasing
16 operation and the student, except that fee and tuition payments
17 shall be made by the student as required by the enrollment
18 agreement or contract.

19 (4) If the amount of the bond is less than the total tuition and
20 fees paid by all students declining the teach-out at the time the
21 institution ceased operation, the amount of the bond shall be
22 prorated among those students.

23 (5) The Student Tuition Recovery Fund shall be used to cover
24 economic loss incurred by a student while enrolled at an institution
25 ceasing operation, including any prepaid tuition and fees not
26 recovered by the student under the bond.

27 (6) The bond shall be used to provide recovery for students
28 enrolled in an institution at the time it ceases operation, within 121
29 days of the institution ceasing operation, and, if applicable, within
30 a period of a declining quality of education, as determined by the
31 bureau, longer than 120 days before the institution ceases operation.

32 (d) Once an institution ceases operation, no new students shall
33 be enrolled.

34 (e) An institution's approval to operate shall be suspended by
35 operation of law when the institution is no longer covered by a
36 surety bond as required by this section. The bureau shall give
37 written notice to the institution at the last-known address, at least
38 45 days prior to a release of a surety, to the effect that approval
39 shall be suspended by operation of law until another surety bond

1 is filed in the same manner and like amount as the bond being
2 released.

3 (f) A surety on any bond filed under the provisions of this
4 section may be released after the surety serves written notice to
5 the bureau at least 60 days prior to the release. The release shall
6 not discharge or otherwise affect any claim filed by any student
7 for loss of tuition or any fees that occurred while the bond was in
8 effect or that occurred under any note or contract executed during
9 any period of time when the bond was in effect, except when
10 another bond is filed in a like amount and provides indemnification
11 for any loss.

12 (g) For purposes of this section, and notwithstanding Section
13 94858, “institution” means, to the extent authorized by federal
14 law, a private postsecondary educational institution that offers
15 postsecondary education to the public in this state for an
16 institutional charge, but does not include an independent institution
17 of higher education, as defined in Section 66010, that has operated
18 in California for no less than 15 academic years.

19 (h) Tuition and fees for purposes of this section are both of the
20 following:

21 (1) Paid tuition and fees not recovered by the receipt of academic
22 credits.

23 (2) Paid tuition and fees recovered by the receipt of academic
24 credits that are nontransferable to accredited institutions.